

# EXHIBIT 82



1 able to just separate himself completely from everyone. I  
2 think water polo was very easy for him initially because of  
3 that.

4 Q. How was his stamina, his ability to last in a game?

5 A. Outstanding.

6 Q. Is that important, speed and stamina for a water polo  
7 player?

8 A. Extremely.

9 Q. Okay. Was he both on the swim team and the water polo  
10 team during middle school?

11 A. I would be surprised if he wasn't on the swim team. I  
12 just can't remember because I wasn't so involved and I don't  
13 have a recollection of that. He was on the water polo team.

14 Q. Okay. And then you coached him through four years of high  
15 school?

16 A. Yes.

17 Q. How would you characterize him as a high school player?

18 A. Boy, so Johnny, who I have very fond memories of, was --  
19 again, the speed factor, people start to catch up. Athletes  
20 start to catch up on speed, and despite that, he would still  
21 continue to separate himself, even at this high level. And in  
22 part, because he was sort of a -- he was like a quiet grinder  
23 is the best. I would give guys -- and sometimes part of being  
24 your best is being pushed to failure and seeing what you do.  
25 Do you complain? Do you yell at your teammates? And Johnny

1 was the kind of guy who I couldn't get to crack. I would say  
2 do this impossible swim set and he would put his head down and  
3 do it.

4 And so that sort of focus led to the way that he  
5 played the game. He was a -- sort of a nonstop constantly  
6 moving -- he was a driver. So that meant after you swim the  
7 length of the pool, you then are expected to do this really  
8 explosive drive, which I -- whether or not this is relevant, I  
9 was the goalie and I feel like what Johnny and those athletes  
10 do is just miserable. It doesn't look like any fun to me at  
11 all and Johnny was willing to do the really miserable part of  
12 water polo and he kind of did it quietly. So you know, quiet  
13 grinder is the best way I could summarize him in a nutshell.

14 Q. What does grinder mean? What do you mean when you use the  
15 word "grinder"?

16 A. What do I mean? I mean that he's got the fortitude to  
17 just put your head down and swim these very challenging  
18 difficult sets without stopping, without complaining, to just  
19 get it done. Whereas a lot of young players stop, they come up  
20 with excuses, my goggles are loose, I need to get some water, I  
21 forgot to call my mom, he just went in and did these sets  
22 consistently.

23 MR. KENDALL: Your Honor, this might be a good time  
24 for the break.

25 THE COURT: Yes. We will take the morning recess for

1 Q. And he made it even though he missed a significant amount  
2 of playing time from his concussion?

3 A. He missed playing time for his concussion and also earned  
4 first team all league.

5 Q. So he played fewer games than a lot of the other people,  
6 but he was still one of the top players in the league?

7 A. He played fewer games and was still selected to all  
8 league, yes.

9 Q. Who picks the all league at PAL?

11:57 10 A. It's the coaches of the teams in the leagues.

11 Q. So it's not just you; it's the coaches you're playing  
12 against?

13 A. Correct.

14 Q. How important -- during Johnny's junior and senior year,  
15 how important was his speed for him to be a water polo player?

16 A. Speed in general is exceptionally important. I mean,  
17 it's -- again, I use basketball because people tend to be more  
18 familiar with basketball, especially on the east coast. If you  
19 can get down the court faster than the defender next to you,  
11:58 20 then you're closer to the basket. So speed is exceptionally  
21 important.

22 Q. And how would you describe his speed up until the time he  
23 got the concussion senior year?

24 A. Well, thankfully we have the data to show that he was  
25 arguably the fastest player on the team and also one of, I

1 would say one of the fastest in the league. I don't have

2 evidence to prove that, but --

3 Q. That's what you observed --

4 A. Yes.

5 Q. -- from being at the games?

6 And do college coaches give much weight to a player  
7 having that type of speed relative to others?

8 MR. FRANK: Objection, hearsay.

9 THE COURT: Sustained.

11:58 10 Q. Have you been involved in much college recruiting in your  
11 water polo career?

12 A. Yes.

13 Q. Okay. How many recruiting calls do you do in a typical  
14 year as a coach at Menlo?

15 A. I feel like in the last month I've had, I don't know, 50.

16 Q. Would that be typical for a season over the last ten  
17 years?

18 A. Yes.

19 Q. You have well in excess of 50 recruiting calls with  
11:59 20 college coaches every year?

21 A. Oh, more than that. I'm saying in the last month.

22 Q. Okay. Typical season or typical year, how many recruiting  
23 calls do you have with coaches?

24 A. Including e-mails or just phone calls?

25 Q. Contacts where you're discussing candidates with coaches.

1 Q. Did Johnny have the speed to make that jump?

2 A. Yes.

3 Q. Is there a phrase that water polo coaches use called  
4 "inside game"?

5 A. The term is "inside water." I guess some may call it  
6 "inside game." "Inside water" would be more appropriate.

7 Q. What does that mean?

8 A. Inside water, if this Kleenex box is the goal, and here is  
9 the defender, and here is the offensive player, if the  
10 offensive player can find a way to get closer to the goal than  
11 the defensive player, then they're said to have inside water.  
12 That's not only important for the obvious reasons, because you  
13 want to be closer to the goal without a defender in your way,  
14 but if a defender fouls you in this situation, even if it would  
15 have typically been a normal foul, this defender is either  
16 excluded from the game or a penalty shot is awarded. So in a  
17 way, the high level athletes are more trying to get inside  
18 water than to just throw the ball into the goal.

19 Q. How was Johnny at inside water?

12:01 20 A. Very strong. I would say his ability to earn inside water  
21 and his defensive ability to read the game and earn steals were  
22 his forte.

23 Q. Okay. And were they at a level where he could play at a  
24 good Division 1 team, or at least be a redshirt walk-on to a  
25 good Division 1 team?

1 A. Oh, yes.

2 Q. Okay. Are those qualities that Division 1 coaches look  
3 for in high school athletes?

4 A. Yes.

5 Q. Okay. Would it be fair to say Johnny was playing varsity  
6 his sophomore year, correct?

7 A. Yes.

8 Q. Did his teammates give him any particular recognition  
9 sophomore year?

12:02 10 A. Yeah. So sophomore year was unique in that we run a  
11 tournament in honor of a player that was unfortunately killed  
12 in a car accident when he went off to play at Princeton. It's  
13 called the Scott Roach Invitational. It honors his spirit. It  
14 turns out the kid was an amazing person in many ways, but  
15 that's not necessarily relevant here.

16 So we host this tournament called the Scott Roach  
17 Invitational. And that year we won the tournament. It's a  
18 pretty high level tournament, and we won the tournament. And  
19 so typically there's a sponsor of the tournament, you get like  
12:03 20 a suit or a bag or a shirt or something. And the sponsor gave  
21 me an extra, I think it was an extra sweatshirt, some extra  
22 item. And the team decided to vote on who was the most  
23 inspirational player of the tournament, and they chose Johnny.

24 Q. As a sophomore?

25 A. Yeah.



1 phone must have influenced the coach. Like, I said, "That call  
2 must have done it."

3 Q. Okay. And that's because you thought Johnny had speed for  
4 the high level of college play?

5 A. It's a combination of his speed, which you can't teach.  
6 So the speed and the water polo IQ just by virtue of starting  
7 for a team, a national caliber team for three years, that is  
8 enough to confidently say by your junior year, maybe senior  
9 year, you could contribute to a high-level program like USC.

12:20 10 Not as a freshman or a sophomore but later in the career.

11 Q. Okay. At the time this happened, you knew how good the  
12 USC team was, correct?

13 A. Yes.

14 Q. You knew how tough Coach Vavic was, correct?

15 A. Yes.

16 Q. And you thought Johnny could find a place in that program?

17 A. Yes.

18 Q. Did your conversation with the USC coach take place before  
19 or after Johnny had his concussion, if you can remember?

12:21 20 A. I cannot remember that chronology.

21 Q. Okay. Are you aware of the honor given to some high  
22 school athletes of being all-CCS?

23 A. Yes.

24 Q. What does that mean?

25 A. It's very similar to the all-league. It's a bigger award

1 A. Like I said, it's a little misleading. I would say most  
2 of the time the Division 2 teams were quite a bit stronger than  
3 Division 1.

4 Q. And Menlo is in Division 2?

5 A. Always, we're very small. We'll never be in the big  
6 school division.

7 Q. Okay. I'd like to ask you to take a look at Exhibit 7255,  
8 please. Do you recognize that?

9 A. It's an e-mail from me to Leslie Wilson.

12:24 10 Q. Okay. And it's during Johnny's senior year?

11 A. This is December --

12 Q. Excuse me, during his junior year?

13 A. Correct.

14 MR. KENDALL: Thank you. Your Honor, I'd like to  
15 offer 7255 into evidence.

16 MR. FRANK: Objection.

17 MR. KENDALL: Again, it's for notice to my clients,  
18 not for the truth of the matter asserted. It's for state of  
19 mind.

12:24 20 THE COURT: Sustained.

21 MR. KENDALL: Okay.

22 Q. Did SoPen have an alumni game every year?

23 A. Yes.

24 Q. And what was the alumni game?

25 A. So the alumni game is essentially all of the alumni come

1 abilities?

2 MR. KENDALL: Objection, your Honor. Can't speak to  
3 what other people were thinking would happen with other people.

4 THE COURT: Sustained.

5 Q. Would you agree, sir, that lying on a profile is not being  
6 your best?

7 A. Yes.

8 MR. FRANK: No further questions.

9 THE COURT: Redirect, Mr. Kendall?

02:48 10 MR. KENDALL: One moment, your Honor.

11 REDIRECT EXAMINATION OF JOHN BOWEN

12 BY MR. KENDALL:

13 Q. Mr. Bowen, I think when you were under examination you  
14 said he had A plus speed?

15 A. Yes.

16 Q. Did you also say he had an A or A plus work ethic as a  
17 grinder?

18 A. Yes.

19 Q. Okay. Did -- was it your view that he could make a -- if  
02:49 20 he had joined the USC program and stuck with it, he would make  
21 a meaningful contribution to it?

22 A. The way I've consistently framed it as I did believe,  
23 given his speed and his water polo IQ, that at some point by  
24 his junior or senior year he could make a contribution to a  
25 program like USC.

1 C E R T I F I C A T E  
2  
34 UNITED STATES DISTRICT COURT )  
5 DISTRICT OF MASSACHUSETTS )  
6  
78 We, Kristin M. Kelley and Kelly Mortellite, certify  
9 that the foregoing is a correct transcript from the record of  
10 proceedings taken October 4, 2021 in the above-entitled matter  
11 to the best of our skill and ability.  
12  
1314 /s/ Kristin M. KelleyOctober 4, 202115 /s/ Kelly MortelliteOctober 4, 202116 Kristin M. Kelley, RPR, CRR  
17 Kelly Mortellite, RMR, CRR  
18 Official Court Reporter  
19  
20  
21  
22  
23  
24  
25

Date